

FINAL REPORT OF NORBERTO RIVERA

PAGE 5

"violent and agitated and withdrawing from heroin." The psychiatrist could not substantiate the information in his written statement. He could not confirm who had informed him that Rivera's behavior was violent and he himself had not seen him. In contrast, Rivera was seen regularly by medical and nursing staff without any record of violent conduct or agitation observed. Dr. P.S. also wrote in Part II of the M1-87 that he asked if Rivera could be seen the following week and was told yes. The psychiatrist could not substantiate who informed him of this other than "it was one of the nurses." Dr. P.S.'s documented reasons for not evaluating Rivera are without justification and, as cited in Finding #8, constituted a deliberate refusal to provide services and represents inadequate mental health evaluation and treatment.

19. The North Housing area is a 16 cell linear housing unit that has one officer assigned to it. The officer maintains a post right outside the block door. In addition to supervising the housing unit, the officer also has responsibilities to supervise a program area down the hall, movement into the adjacent recreation yard and a separate 4 cell housing unit approximately 100 feet away. The additional duties added to this post prevent an officer from being able to maintain active supervision adequately and should be reviewed as part of an updated staffing analysis.

RECOMMENDATIONS:TO THE SHERIFF OF PUTNAM COUNTY:

1. The Sheriff should question the housing area officer for the North Housing area for the accuracy of his documented times he completed rounds. Policy should be in place to have officers document the actual time they complete rounds and not rounded off to the nearest half or quarter hour.
2. Re-evaluate available first aid equipment for emergency medical response situations. If oxygen and respirator equipment is available, training should be provided to assure proper usage and deployment with a non-breathing person.
3. The Sheriff should request an updated staffing analysis be completed with particular attention to the North Housing area post and its adjacent responsibilities.

TO THE PRESIDENT OF AMERICOR, INC.:

A peer review inquiry of the responding nurse on 11/15/03 should be conducted in regards to the use of a simple oxygen face mask delivery device on a non-breathing patient. Additional training on CPR and resuscitation should be provided if found to be necessary.

TO THE DIRECTOR OF PUTNAM FAMILY SERVICES:

1. Dr. P.S., the psychiatrist who provides services to the Putnam County Jail, should be disciplined for filing false information on

FINAL REPORT OF NORBERTO RIVERA

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Part II of the Inmate Death Notification form (M1-87), an official instrument of the State Commission of Correction, regarding why he did not evaluate Rivera.

2. Dr. P.S., the psychiatrist, should be disciplined for instituting a policy to not evaluate any newly admitted inmate who may be detoxing. Each case should be evaluated individually as such blanket policies fall below the community standard of care and represent inadequate care.

TO THE NYS DEPARTMENT OF HEALTH, OFFICE OF PROFESSIONAL MEDICAL CONDUCT:

Conduct an inquiry into the conduct of Dr. P.S., a psychiatrist employed by Putnam Family Services, who falsely documented information on a patient who he never saw.

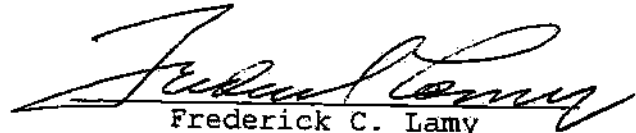
Note: In a letter to the Medical Review Board dated October 29, 2004, Sheriff Donald Smith made a wholly satisfactory response to the findings and recommendations made to the Office of the Sheriff, including affirmatively addressing the staffing issues in this case and appropriate administrative action concerning the documentation of security checks. In addition, the Sheriff has taken the initiative to open a dialogue on the quality and availability of mental health services at the Putnam County Jail.

In letters to the Medical Review Board dated October 21, 2004, Michael Piazza, the Putnam County Commissioner of Mental Health, Social Services and Youth Bureau, and Edythe S. Schwartz, Executive Director of Putnam Family and Community Services, both defended the actions of Dr. P.S. in failing to see Norberto Rivera while falsely claiming that Rivera was agitated, violent and withdrawing from opiates. Both suggested there was no basis for complaint against Dr. P.S. even though the investigation of this case clearly showed that Mr. Rivera was not agitated or violent when Dr. P.S. was asked to see him and no one on the medical or security staff informed Dr. P.S. that Mr. Rivera was agitated or violent. The fact that Mr. Rivera was withdrawing from opiates was irrelevant to Dr. P.S.'s refusal to see and assess him. Executive Director Schwartz went on to suggest that Dr. P.S. could have been prevailed upon to see this patient if in effect someone else had assessed him in advance, something the nursing staff who referred him indeed did. Commissioner Piazza went on to incorrectly state that there are no standards for forensic mental health services, no guidelines and no funding. Apart from being wrong on all accounts, the Board found the attitude evinced by such statements to be dismissive of Mental Hygiene Law, public policy and biomedical ethics, serving only to heighten the concerns of the Commission and Board in this case, which categorically rejected both responses.

FINAL REPORT OF NORBERTO RIVERA

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WITNESS, HONORABLE FREDERICK C. LAMY, Commissioner, NYS Commission of Correction, 80 Wolf Road, 4th Floor, in the City of Albany, New York 12205 this 11th day of January, 2005.



Frederick C. Lamy
Commissioner

FCL:mj
03-M-212
9/04

cc: Commissioner Michael J. Piazza, Putnam County
Departments of Mental Health, Social Services
and Youth Bureau
Edythe Schwartz, Executive Director, Putnam
Family and Community Services
— Kevin Duffy, President & CEO, Americor, Inc.
Richard Miraglia, Bureau of Forensic
Services, NYS Office of Mental Health

EXHIBIT 23

2949 0228 NHTU checked, 13 males secure
 2950 0245 15 min suplo check, cells 10, 11 + 12
 2951 0300 NHTU checked 13 males all secure
 2952 0315 NHTU checked 13 males all secure
 2953 0330 NHTU checked 13 males all secure
 2954 0337 NHTU Area checked All Secure
 2955 0341 15 min suplo check, cells 10, 11 + 12
 2956 0400 NHTU checked, 13 males secure
 2957 0413 15 min suplo check, cells 10, 11 + 12
 2958 0430 NHTU checked, 13 males secure
 2959 0440 Retrieved 1, male Qureshi, Shahram
 2960 0445 NHTU, 15 min check, ^{cells} 10, 11, + 12
 2961 0500 NHTU checked, 14 males secure
 2962 0513 NHTU, 15 min check, ^{cells} 10, 11 + 12
 2963 0514 Nurse Medicated, Hachenberge
 2964 0528 NHTU checked, 14 males secure
 2965 0545 15 min suplo check, cells 10, 11 + 12
 2966 0558 NHTU checked, 14 males secure
 2967 0613 Brow 44 Towir to nurse for Sgar Test
 2968 0615 15 min suplo check, cells 10, 11 + 12
 2969 0628 NHTU checked, 14 males secure
 2970 0643 15 min suplo check, cells 10, 11 + 12
 2971 0700 NHTU checked, 14 males secure
 2972 0714 15 min suplo check, 14 males secure
 2973 0725 C/O Mosagante off duty, All Secure
 2974 0740 Fire & Safety Device checked, All Secure
 2974-0726 OFFICER - ON DUTY - M. A. H. HOUSING UNIT - Vasaturc
 KEYS - LOGBOOK REVIEWED - INSPECTED SUPPLIES - Vasaturc
 POST EQUIPMENT - LOCKS - GATES - BARS - SCREENS - Vasaturc
 (14) SECURITY WINDOWS - DOORS - FIRE FIGHTING EQUIPMENT - Vasaturc
 MALES/FEMALES IN UNIT - 14 MALES/FEMALES OUT OF UNIT - 0
 (14) INMATES TOTAL - ALL SECURE - Vasaturc
 Active Supervision
 2975 0730 N/m checked (14) males secure
 2976 0731 inmates Fed (1) Refusal at Wood
 2977 0745 N/m checked (14) males secure
 2978 0800 N/m checked (14) males secure
 2979 0815 N/m checked (14) males secure
 2980 0830 N/m checked (14) males secure
 2981 0831 Traps collected
 2982 0845 N/m checked (14) males secure
 2983 0900 N/m checked (14) males secure

92

2984	0905	Rec'd ⑨ males SATO, moore, sgammato, lukhann	Vasaturo
2985	0915	N/m checked 18 males secure	Vasaturo
2986	0925	Med's for Nurse	Vasaturo
2987	0930	N/m checked ⑧ males secure	Vasaturo
2988	0945	N/m checked ⑧ males secure	Vasaturo
2989	0950	Rel'd ① male to visit Rodriguez	Vasaturo
2990	1000	N/m checked ⑦ males secure	Vasaturo
2991	1015	N/m checked ⑦ males secure	Vasaturo
2992	1030	N/m checked ⑦ males secure	Vasaturo
2993	1045	N/m checked ⑦ males secure	Vasaturo
2994	1100	N/m checked ⑦ males secure	Vasaturo
2995	1115	N/m checked ⑦ males secure	Vasaturo
2996	1117	Rec'd ① males Rodriguez 2, amano cell ⑩ 10143	Vasaturo
2997	1125	Removed Rivera's bedding cell #41 10154	Vasaturo
2998	1130	N/m checked ⑨ males secure	Vasaturo
2999	1137	Rel'd ① males to the lawhann, SATO, sgammato, moore	Vasaturo
3000	1135	Inmates Fed	Vasaturo
3001	1145	N/m checked ⑬ males secure	Vasaturo
3002	1150	Rel'd ① male Crawford	Vasaturo
3003	1200	N/m checked ⑭ males secure	Vasaturo
3004	1215	N/m checked ⑭ males secure	Vasaturo
3005	1230	N/m checked ⑭ males secure	Vasaturo
3006	1245	N/m checked ⑭ males secure	Vasaturo
3007	1300	N/m checked ⑭ males secure	Vasaturo
3008	1315	N/m checked ⑭ males secure	Vasaturo
3009	1330	N/m checked ⑭ males secure	Vasaturo
3010	1345	N/m checked ⑨ males secure	Vasaturo

November 15, 2003 B-Line

001	1355	Incident North Housing Unit - Cell #011 Inmate Rivera,	B
XXXX		North to 20154 - See Reports	B
002	1400	NHU checked 13 males total all Secure - Incident	B
XXXX		In cell #011 continues	B
003	1415	NHU checked 13 males total See Incident continues	B
XXXXX		In cell #011	B
004	1429	NHU checked - 29 males Secure - Incident continues	B
XXXX		In cell #011	B
005	1444	NHU checked - 29 males Secure - Incident continues	B
XXXXX		In cell #011	B
006	1459	NHU checked - 29 males Secure - Incident continues	B
XXXXX		In cell #011	B
007	1514	NHU checked - 29 males Secure - Incident continues	B
XXXXX		In cell #011	B
008	1539	NHU checked - 27 males Secure - Incident continues	B
XXXXX		In cell #011	B
009	1571	TOT to Officer Otero	B
010	1525	Oto Otero on duty NHU - 13 males - All Secure	stop
011	1530	NHU Checked 13 males - Investigation cont. - (2)	stop
012	1545	NHU Checked (15 min check) 1 male - Invest. cont.	stop
013	1555	Investigator w/ Inmate (Tomas Rodriguez) -	stop
014	1600	NHU Checked 13 males investigation continues	stop
015	1602	Investigator departs unit inmate returned to program office	stop
016	1615	NHU 15 min. check 1 male - A/S Invest. cont. - (2)	stop
017	1630	NHU checked 13 males A/S - Invest. cont. - (2)	stop
018	1645	NHU 15 min. check - 1 male - (2) Invest. cont. -	stop
019	1646	On air on unit - (2)	stop
020	1700	NHU checked 13 males - A/S Invest. cont.	stop
021	1715	NHU (15 min) check - 1 male - Invest. cont. - (2)	stop
022	1730	NHU Checked 13 males - A/S - (2)	stop
023	1745	NHU Checked 1 male (15 min. check) - A/S	stop
024	1746	Inmate (Rivera, Norberto) #2054 (body recovered) Sign. out	stop
025	1800	NHU checked 13 males all secure - (2)	stop
026	1815	NHU checked (1 male) - A/S	stop
027	1830	NHU checked 13 males - A/S - (2)	stop
028	1845	NHU checked 1 male - A/S - (2)	stop
029	1900	NHU checked 13 males A/S - (2)	stop
030	1915	NHU checked 1 male A/S - (2)	stop
031	1930	NHU checked 13 males A/S - (2)	stop
032	1945	NHU checked 1 male A/S - (2)	stop
033	2000	Cells 9, 10, 11, 12 checked - all Secure - (2)	stop
034	2015	NHU checked 13 males A/S 15 min. ck - (2)	stop
035	2030	NHU checked - 13 males - (2)	stop
036	2045	NHU checked (15 min check) 2 males - (2)	stop
037	2100	NHU checked 13 males - All Secure - (2)	stop

Saturday C-Line 11/15/03

138 2115 NHU Checked 13 Males All Secure — (2) *Open*139 2130 NHU Checked (2 males 15 min. ck) A/S. — (2) *Open*140 2132 S. ~~Memo~~ ~~ck~~ N/mits — *Se*141 2144 NHU Checked 2 males — All Secure — (2) *Open*142 2201 NHU Checked 12 males A/S — (2) *Open*All Inmates locked in w/out incident — (2) *Open*143 2213 NHU Checked 2 Males 9// Secure — (2) *Open*144 2217 NU Checked 2 Males, all secure — (2) *Open*145 2231 NHU Checked 13 males Secure — *Open*146 2246 NHU Checked 2 Males, All Secure — *Open*147 2300 NHU Checked 13 males secure — *Open*148 2315 NHU Checked 2 Males — All Secure — *Open*149 2330 DO WASH off duty with 13 males 2014 *Open*X X all secure — All equipment accounted for — *Open*Sunday 11/16/03 A-Line 2330-0730 — *Open*

EXHIBIT 24



PUTNAM COUNTY
OFFICE OF THE SHERIFF
THREE COUNTY CENTER
CARMEL, NEW YORK 10512



DONALD B. SMITH
Brigadier General, U.S. Army (Ret.)
SHERIFF
(845) 225 - 3000

PETER H. CONVERY
UNDERSHERIFF
(845) 225 - 1460

VIA FACSIMILE (518) 485-0016
AND REGULAR MAIL

October 29, 2004

Commissioner/Chairman Frederick C. Lamy
Medical Review Board
State Commission of Correction
4 Tower Place
Albany, New York 12203-3764

RE: Norberto Rivera
DOD: 11/15/03
FAC: Putnam County Jail
MRB#: 03-M-212

Dear Commissioner/Chairman Lamy:

We would like to thank the Commission for its thorough preliminary report in the above matter and for the opportunity to comment on it. We respectfully request that the Commission consider the points raised in this letter prior to issuing its final report.

We accept the Commission's findings with the following comments:

- Paragraph #12 implies that the removal of bedding was a punitive measure. This is not the case. When an inmate becomes agitated or disruptive, all items in his or her cell, including personal effects and county property, are removed as a safety precaution. This is for the protection of the inmate and staff and is intended to prevent items from being thrown, damaged, or used to stop up the cell toilet. The inmate's bedding is always returned at lights out.
- Paragraph #14 terms the housing area officer's entry into the recreation yard an "unauthorized leaving of the housing area post without relief." Under the current COC staffing analysis, however, the recreation yard is considered part of the North Housing Unit. Accordingly, we do not view the officer's entry into the recreation yard as leaving his post.



Commissioner Lamy
October 29, 2004
Page 2

- Paragraph #19 - The duties of the North Housing Unit post are consistent with original staffing analysis guidelines and those duties have not been enlarged or expanded.

We accept the Commission's recommendations to the Sheriff of Putnam County, with the following comments:

1. The suicide screening policies and procedures in place are consistent with those set forth in the January 2000 *Trainer's Manual for Suicide Prevention and Crisis Intervention*. After the initial inmate screening was done in this case, a medical and mental health referral was made. Moreover, after screening by the medical doctor, a second mental health referral was made. Facility staff was therefore on notice that proper and necessary referrals had been made and the inmate was in the care of both medical and mental health providers. Immediately after the incident, the department Inspector General conducted a special inspection to ensure that suicide-screening procedures were in compliance with current directives.
2. The correction officer on duty during the incident was counseled regarding his "rounding" of the times of security checks. As part of our training in August, this issue was again covered and the staff was instructed to record actual times. With respect to why the officer entered the recreation yard on the incident date, it was determined that the officer went there to smoke a cigarette, which was permitted in that part of the facility.
3. The Commission's findings show that, as soon as officers gained entry to Mr. Rivera's cell, officers started CPR, a sergeant brought an oxygen respirator to aid the victim, and the facility nurse responded to assist in the rescue efforts. Just *eight minutes* after discovery, a paramedic unit was on scene. There are five oxygen units strategically placed about the facility, with one located at the North Housing Unit officer's desk. All correction officers are Certified First Responders, as a minimum, with many officers trained to an even higher level of certification. We believe that our level of staff training is well above standard and that the efforts of the emergency responders in this particular incident were outstanding.
4. We requested and obtained a new correction officer position for the post of Program Officer in the 2004 jail operating budget. The position has been filled and is awaiting post assignment. Based on an internal review and COC recommendations, we will continue to gather data for a comprehensive staffing analysis, which, we anticipate, will be requested in early 2005.

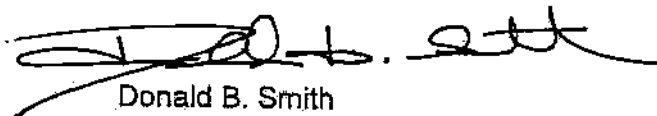
Commissioner Lamy
October 29, 2004
Page 3

Although not addressed to the Sheriff of Putnam County, we must comment on the Commission's recommendations to the Director of Putnam Family Services.

As the Commission is aware, the Sheriff directly contracts for jail medical services while the Putnam County Commissioner of Mental Health arranges for jail mental health services through a vendor. We are very concerned about the findings of the Medical Board relating to mental health care in the facility. In light of those findings, we have met with the County Mental Health Commissioner to explore ways to improve the level of psychiatric care provided to inmates.

If you have any questions or need any additional information, please do not hesitate to call me directly at (845) 225-3000. We thank the Commission and its staff for assisting us in achieving and maintaining the highest quality standards in our jail, and helping us to provide the very best level of service to our inmate population and to all the citizens of Putnam County.

Sincerely,

A handwritten signature in black ink, appearing to read "Donald B. Smith", with a horizontal line drawn through the middle of the signature.

Donald B. Smith
Sheriff

DBS/jm

EXHIBIT 25

SATURDAY MAY 20, 2006 A List

18872 0001 SHU checked 6 females secure
 18873 0030 SHU checked 6 females secure
 18874 0102 SHU checked 6 females secure
 18875 0131 SHU checked 6 females secure
 18876 0201 SHU checked 6 females secure
 18877 0222 SHU checked 6 females secure
 18878 0200 SHU checked 6 females secure

18879 0330 SHU checked 6 females secure
 18880 0345 SHU checked 6 females secure

18881 0400 SHU checked 6 females secure
 18882 0430 SHU checked 6 females secure

18883 0502 SHU checked 6 females secure
 18884 0531 SHU checked 6 females secure

18885 0603 SHU checked 6 females secure
 18886 0619 SHU checked 6 females secure

18887 0627 SHU checked 6 females secure
 18888 0700 SHU checked 6 females secure

18889 0720 Date: 5/20/06 Day: Saturday Shift: A
 Correction Officer: [Signature] on/off duty SHU housing unit
 10 Keys and logbook checked and reviewed. Inspected: supplies,
 10 Utensils, post equipment, locks, gates, bars, screens, security windows,
 doors, firefighting equipment checked and found operational.

(Deficiencies noted below)
 6 males/females counted on unit, 0 males/females off unit, 6 total
 males/females assigned to unit, all secure. Unit on [Signature] supervision.

18890 0720 Date: May 20, 2006 Day: Saturday Shift: B-Care
 Correction Officer: [Signature] on/off duty SHU housing unit
 10 Keys and logbook checked and reviewed. Inspected: supplies,
 10 Utensils, post equipment, locks, gates, bars, screens, security windows,
 doors, firefighting equipment checked and found operational.

(Deficiencies noted below)
 6 males/females counted on unit, 0 males/females off unit, 6 total
 males/females assigned to unit, all secure. Unit on [Signature] supervision.

18891 0730 SHU checked - 6 Females secure
 XXXXX Inmate Fed/ No Refusal

18892 0800 SHU checked - 6 Females secure
 18893 0830 SHU checked - 6 Females secure

18894 0835 Smoke Break Given at this time
 18895 0852 NINE Admin. MEET at this time

18896 0900 SHU checked - 6 Females secure
 18897 0929 SHU checked - 6 Females secure

18898 0959 SHU checked - 6 Females secure
 18899 1029 SHU checked - 6 Females secure

18900 1059 SHU checked - 6 Females secure
 18901 1114 Smoke Break Given at this time

18902 1129 SHU checked - 6 Females secure
 XXXXX Inmate Fed/ No Refusal

18903 1159 SHU checked - 6 Females secure
 18904 1229 SHU checked - 6 Females secure

421

Saturday May 20, 2006 B-LINE (con.)

18905 1255 SHU Area checked All secure
 18906 1259 SHU checked - 6 Females secure
 18907 1329 SHU checked - 6 Females secure
 18908 1359 SHU checked - 6 Females secure
 18909 1429 SHU checked - 6 Females secure
 18910 1459 SHU checked - 6 Females secure
 18911 1520 C.O. Blanchard on duty

Saturday May 20, 2006 C-LINE

18912 1529 SHU checked - 6 Females secure
 18913 1559 SHU checked - 6 Females secure
 18914 1629 SHU checked - 6 Females secure
 18915 1633 Inmates Fed/No Refusal
 18916 1659 SHU checked - 6 Females secure
 18917 1729 SHU checked - 6 Females secure
 18918 1732 Smoke Break Given at this time
 18919 1759 SHU checked - 6 Females secure
 18920 1829 SHU checked - 6 Females secure
 18921 1859 SHU checked - 6 Females secure
 18922 1929 SHU checked - 6 Females secure
 18923 1940 Smoke Break Given at this time
 18924 1959 SHU checked - 6 Females secure
 18925 2029 SHU checked - 6 Females secure
 18926 2059 SHU checked - 6 Females secure
 18927 2104 SHU checked - 6 Females secure
 XXXXX NURSE Admin. MEDS at this time
 18928 2115 Smoke Break Given at this time
 18929 2129 SHU checked - 6 Females secure
 18930 2159 SHU checked - 6 Females secure
 18931 2200 SHU IS on General SUPERVISION
 18932 2210 SS ~~Man~~ Old SHU

18933 2230 SHU checked (6) Females All secure
 18934 2300 SHU checked - 6 Females secure

18935 2330 Date: May 20, 2006 Day: Saturday Shift: B-LINE
 Correction Officer Blanchard on/off duty SHU housing unit.
 (22) Keys and logbook checked and reviewed. Inspected: supplies,
 (10) Utensils, post equipment, locks, gates, bars, screens, security windows,
 doors, firefighting equipment checked and found operational.

(Deficiencies noted below)
 (6) males/females counted on unit, (0) males/females off unit, (6) total
 males/females assigned to unit, all secure. Unit on General supervision.

18936 2340 Date: May 21, 2006 Day: Sunday Shift: A-LINE
 Correction Officer Shannon on/off duty SHU housing unit.
 (22) Keys and logbook checked and reviewed. Inspected: supplies,
 (10) Utensils, post equipment, locks, gates, bars, screens, security windows,
 doors, firefighting equipment checked and found operational.

(Deficiencies noted below)
 (6) males/females counted on unit, (2) males/females off unit, (6) total
 males/females assigned to unit, all secure. Unit on general supervision.

18937 2330 SHU checked 6 females secure

EXHIBIT 26

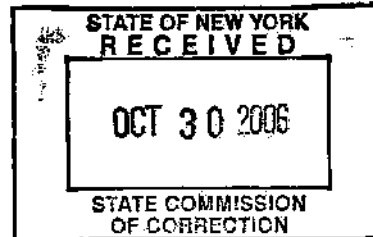


**PUTNAM COUNTY
OFFICE OF THE SHERIFF
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DONALD B. SMITH
Brigadier General, U.S. Army (Ret.)
SHERIFF
(845) 225 - 3000

PETER H. CONVERY
UNDERSHERIFF
(845) 225 - 1460



VIA FACSIMILE AND U.S. MAIL
(518) 485-2467

October 25, 2006

Honorable Frederick C. Lamy
Commissioner & Chairman
Medical Review Board
New York State Commission of Correction
80 Wolf Road, 4th Floor
Albany, New York 12205

RE: Response to Preliminary Report
MRB#: 06-M-84

Dear Commissioner Lamy:

I am writing in response to the Commission's September 25, 2006 preliminary report, MRB#: 06-M-84, pertaining to the death of Inmate Spencer Sinkov at the Putnam County Correctional Facility on May 20, 2006. In your preliminary report you asked for feedback from me on the findings of the Commission. I thank you for giving me this opportunity and at the outset, want to thank you and your staff for your diligence in dealing with this matter as both the Commission and the Putnam County Sheriff's Office share a joint commitment and responsibility in ensuring the highest level of constitutional and humane supervision and treatment of all the inmates who are entrusted to our care.

I have reviewed your preliminary report and respectfully provide the following input and recommendations for your consideration before you submit your final report.

Recommendations:


1. After conducting our own independent review, I concur with the thrust of your recommendation that the correction officer who administered the suicide screening did not follow the policy and procedures of the Putnam County Jail in that he failed to notify the shift supervisor of a high suicide risk inmate and also failed to initiate constant supervision of a high risk inmate. This employee is currently pending discipline in accordance with all applicable laws including Civil Service Law, Article 75, and in accordance with administrative and contractual procedures.

2. I concur with your findings that the shift supervisor assigned to the 11:30 p.m. to 7:30 a.m. tour failed to review the inmate's medical/risk assessment, per department policy and procedure, after being informed that the inmate was being placed on a fifteen minute supervisory watch. This supervisor is pending discipline in accordance with all applicable laws including Civil Service Law, Article 75, and in accordance with administrative and contractual procedures.
3. Per your request, I have reviewed your concern pertaining to whether AmeriCor is lawfully engaged in the practice of medicine in the State of New York. My findings in this matter are that while AmeriCor does provide some services and coordinates others, it is not engaged in the practice of medicine. Medical decision making at the Putnam County Correctional Facility is the sole province of Michael J. Nesheiwat, MD. Dr. Nesheiwat is a board certified New York State licensed physician, appointed by the Putnam County Legislature as our jail physician. He directly reports to me as the Sheriff. He functions as medical director and as such is responsible for all medical decision making in our facility. Our system is structured such that no one from my department or AmeriCor can overrule the physician's orders. Further, Dr. Nesheiwat is our police surgeon. He is also a member of the Putnam County Health Department with which we confer on medical matters on a regular basis. Again, the appointment of Dr. Nesheiwat was made by the County Legislature specifically to ensure that he is the jail physician and the AmeriCor contract was reviewed and approved by the County Attorney. I have the highest level of confidence in Dr. Nesheiwat and am grateful that we have a physician with his outstanding abilities serving our inmate population. I, therefore, do not concur with your Recommendation #3 and do not believe it should be contained in the final report.

In closing, I want you to know that we take the custody, care, and treatment of our inmates as one of the highest responsibilities of the Office of Sheriff. As such, we strive to not just achieve minimum standards, but to be a correctional facility of excellence. In that vein we have sought assistance from the National Institute of Corrections (NIC) and are currently conducting a study funded by the NIC that will look at all aspects of suicide prevention going above and beyond just achieving minimum standards in order to make the Putnam County Correctional Facility a model of excellence in this important area.

As always, we are available to work with your staff in continuing to make the Putnam County Correctional Facility the very best it can be in serving the citizens in our great County. Thank you again for your assistance.

Sincerely,


Donald B. Smith
Sheriff

DBS/jm

EXHIBIT 27



EXHIBIT 28

AGREEMENT

Between

THE COUNTY OF PUTNAM

And

THE PUTNAM COUNTY SHERIFF

And

**THE PUTNAM COUNTY DEPUTY SHERIFF'S
BENEVOLENT ASSOCIATION, INC.**

JANUARY 1, 2000 THROUGH DECEMBER 31, 2002

PREAMBLE

This Agreement by and between the County of Putnam and the Putnam County Sheriff, as joint employers (hereinafter referred to as the "County"), and the Putnam County Deputy Sheriff's Benevolent Association, Inc. (hereinafter referred to as the "Association"), represents the complete and final understanding on all bargainable issues between the County and the Association.

ARTICLE I

THE LAW GOVERNING THIS AGREEMENT

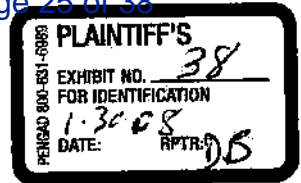
The law governing this Agreement shall be the Public Employees' Fair Employment Act, and the local laws of the County of Putnam, which are not inconsistent with the said act and laws.

ARTICLE II

RECOGNITION AND ASSOCIATION RIGHTS

- A. The County recognizes the Association as the sole and exclusive representative for employees of the Putnam County Sheriff's Department holding the titles of Corrections Officer, Corrections Sergeant, Cook, Principal Account Clerk, Dispatcher, Senior Office Assistant and Office Assistant and shall exclude the titles of Sheriff, Undersheriff, Chief Criminal Investigator/Inspector, Captain, Lieutenant, Warden, Deputy Warden, Deputy Sheriff, Deputy Sheriff Sergeant, Deputy Sheriff Investigator, Senior Investigator, First Sergeant, Confidential Secretary, Custodian and all other County employees.
- B. The Association shall act as such representative or agent in all negotiations with the County within the scope of this Agreement, and when requested to do so by the employee or employees in question, shall represent employees in grievances for the term of this Agreement.
- C. The County recognizes the right of the employees of the Putnam County Sheriff's

EXHIBIT 29



CHAIRMAN'S MEMORANDUM NO. 12-2007 October 31, 2007

TO: SHERIFFS, JAIL ADMINISTRATORS, POLICE CHIEFS, COMMISSIONERS OF CORRECTION, TRAINING COORDINATORS, DIRECTORS OF COMMUNITY SERVICES, FACILITY MEDICAL DIRECTORS, FACILITY MENTAL HEALTH PROGRAM DIRECTORS

RE: Blanket Policies for Use of Suicide Prevention Smocks

THIS CHAIRMAN'S MEMORANDUM REPLACES NO. 8-2007 ISSUED AUGUST 10, 2007

Recent audits of correctional facility policy and procedures by Commission Field Operations staff have revealed institutions that have a "blanket policy" regarding the use of suicide prevention smocks for inmates who have been placed on constant supervision or 'suicide watch.' The Commission believes it is important to clarify that such blanket policies violate *Minimum Standards* Part 7005, Prisoner Personal Hygiene and Part 7003, Security and Supervision.

Inmates who are placed on 'suicide' or constant watch need not necessarily be deprived of their clothing and issued a suicide smock. Pursuant to §7003.2 (d) "constant supervision," an inmate must be directly observed by correctional staff who are able to intervene expeditiously in any attempt at self-harm. Inmates are entitled to wear clothes under Part 7005 Prisoner Personal Hygiene, unless clothes, in and of themselves, present a threat to the safety and security of the facility, staff or inmates. When inmates are placed under the constant supervision of correction officers who can immediately intervene, the *need* to deprive *every* such inmate of their clothing, overriding Part 7005, is not valid.

Each inmate placed on suicide watch should be evaluated on an individual basis to determine if in fact removal of clothing and placement in a smock is necessary. Consistent with the requirements of 9 NYCRR Part 7005 pertaining to inmate clothing, facilities should develop a policy and procedure detailing the specific criteria for issuance of suicide prevention smocks in place of street or standard issue clothing. The written policy should include, but not be limited to, the following items:

- 1 person(s) authorized to evaluate and place an inmate in a smock
- 2 the reason(s) that may necessitate placement in a smock
- 3 the duration of time that the individual will wear the smock, and
- 4 an evaluation process of the inmates wearing the smock on a daily basis by the ranking facility authority and/or medical and mental health staff where applicable.

Persons making these determinations shall include providers in authority from the medical or mental health staffs or the ranking facility authority. Identified inmates shall be placed under *constant supervision* for a period of time determined by the appropriate medical or mental health providers or by ranking facility

New York State Commission of Correction
80 Wolf Road, 4th Floor
Albany, New York 12205
(518) 485-2346

Daniel L. Stewart, Chairman

Frederick C. Lamy, Commissioner
Frances T. Sullivan, Commissioner

authority. Determinations made by medical or mental health providers to apply or remove these precautions should be made subject to the endorsement of the ranking facility authority.

The Commission also stresses that placement of inmates in a suicide prevention smock in no way reduces supervision requirements while they are at risk for suicide attempt. No garment issue shall substitute for constant supervision of suicidal inmates as required by 7003.3(h) Additional supervision.

Questions and comments may be directed to Peggy Loffredo, Field Supervisor Forensic Medical Unit, Christopher Ost, Forensic Medical Unit or to the Field Supervisor in charge of the Regional Unit serving your facility.

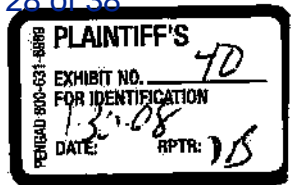
Daniel L. Stewart, Chairman

**New York State Commission of Correction
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Albany, New York 12205
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**Daniel L. Stewart, Chairman

Frederick C. Lamy, Commissioner
Frances T. Sullivan, Commissioner**

EXHIBIT 30



P-1

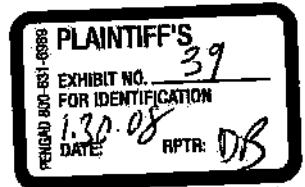
**PUTNAM COUNTY SHERIFF'S DEPARTMENT
INTER-OFFICE MEMORANDUM**

Date: September 28, 2004

TO: Captain Robert LeFever
FROM: Undersheriff Peter H. Convery *PAC*
SUBJECT: New York State Commission of Corrections Recommendations
Norberto Rivera – 11/15/03

Reference is made to the above subject; please prepare a written response to the following statements by Tuesday, October 5, 2004.

1. The Sheriff should review policy and procedure for performing suicide prevention screening. Policy should be in place to recognize that the screening tool is only valid for up to 72 hours and not on any inmate who is under the influence of alcohol or drugs. Procedures should be developed to re-screen any inmate who at the time of admission was under the influence as part of regular classification and risk assessment.
2. The Sheriff should question the housing area officer for the North Housing area for the accuracy of his documented times he completed rounds. Policy should be in place to have officers document the actual time they complete rounds and not rounded off to the nearest half or quarter hour. The reason for his absence from his assigned post when he entered the recreation yard should be determined and evaluated.
3. Re-evaluate available first aid equipment for emergency medical response situations. If oxygen and respirator equipment is available, training should be provided to assure proper usage and deployment with a non-breathing person.
4. The Sheriff should request an updated staffing analysis be completed with particular attention to the North Housing area post and its adjacent responsibilities.



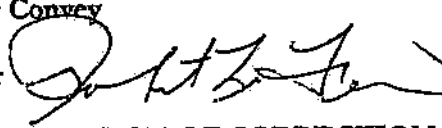
P-1

PUTNAM COUNTY SHERIFF'S DEPARTMENT

INTER - OFFICE MEMORANDUM

Date: October 4, 2004

TO: Sheriff Donald Smith
ATT: Undersheriff Peter Conway

FROM: Captain Robert Le Fever 

SUBJECT: NEW YORK STATE COMMISSION OF CORRECTION
RECOMMENDATIONS NORBERTO RIVERA DEATH
NOVEMBER 15, 2003

In response to your memorandum regarding the above subject, based on the information in your memorandum the following is provided;

1. The policies and procedures in place are consistent with the training for suicide prevention. The training teaches that a suicide prevention screening is only good for 72 hours and should re-screen persons under the influence of alcohol or drugs.

Inmate Rivera was referred to the medical unit for medical and mental health evaluation. The medical staff then referred inmate Rivera to the mental health provider, Doctor Sadler. Once this was done there was no basis for a Correction Officer to re-screen an inmate who was referred to the psychiatrist. At this point the care of the inmate was in the hands of Dr. Sadler, the mental health provider's psychiatrist.

2. The Correction Officer on duty during the incident was counseled regarding his "rounding" of the times of his security checks. A review of his logbook entries other dates showed that he entered the "actual" time her conducted checks. As part of the training in August the recording of the actual time the security check was conducted into the logbook was covered.
3. Correction Officers are Certified First Responder trained, which includes the administering of oxygen. There would be no additional training that would be appropriate. A review of the oxygen units in the Facility found the number to be sufficient and their placement strategically located throughout

the Facility. The training of the medical personnel would be at the discretion of the medical provider.

4. The Sheriff has already obtained a new Correction Officer position for the post of Program Officer. This was requested for the 2004 budget and most recently the position filled. Recently the process had begun to assign this post. Additionally, it was discussed with Mr. Keith Zobel, COC, Field Evaluator, that 2005 would be used for data gathering for a detail and concise staffing analysis.

Recommend that no response be sent to the Commission without meeting on this matter.

CC: Lt P. O'Malley
Sgt. K. Jackson

EXHIBIT 31



**PUTNAM COUNTY
OFFICE OF THE SHERIFF
THREE COUNTY CENTER
CARMEL, NEW YORK 10512**



DONALD B. SMITH

Brigadier General, U.S. Army (Ret.)

SHERIFF

(845) 225 - 3000

PETER H. CONVERY

UNDERSHERIFF

(845) 225 - 1460

VIA FACSIMILE AND U.S. MAIL

November 20, 2006

Chairman Daniel L. Stewart
New York State Commission of Correction
80 Wolf Road, 4th Floor
Albany, New York 12205

Re: Revised Staffing Analysis

Dear Chairman Stewart:

I am writing in response to your letter of October 13, 2006 regarding the above subject. Per your request, I have reviewed the preliminary staffing analysis and am providing the following comments for your review and consideration.

After reviewing the staffing analysis, my staff and I concur with its conclusions and recommendations for a minimum staffing of 36 posts for a 24-hour period which results in a total of 57 full-time equivalent positions for the future operation of the Putnam County Jail. Since this revised preliminary staffing analysis calls for the hiring of eight additional correction officers over our current staffing level, I hereby propose that the new staffing analysis be implemented over a two-year period. This proposed two-year period would allow us to implement the new staffing levels, while mitigating the burden on the real property taxpayers of Putnam County and at the same time hiring, training and integrating quality correction officers on our team to fill these new positions.

If I receive your approval on this two-year implementation plan, I will propose to the Putnam County Executive and Legislative Board the hiring of two corrections officers during the third and fourth quarters of 2007; four correction officers during the first and second quarters of 2008; and two correction officers during the third and fourth quarters of 2008. With your approval and the approval of the leadership of Putnam County, we would in effect have this plan fully implemented during the last quarter of 2008.

Chairman Daniel L. Stewart
November 20, 2006
Page 2

In closing, I wish to thank Mr. Terrence Moran and Mr. Keith Zobel for their hard work and diligence in putting together a very professional staffing analysis for the Putnam County Jail. I also thank you and your staff for everything you do to help us make the Putnam County Jail the best it can possibly be in serving the citizens of Putnam County.

Best wishes. Keep the faith!

Sincerely,

A handwritten signature in black ink, appearing to read 'Donald B. Smith', with a long horizontal flourish extending to the right.

Donald B. Smith
Sheriff

DBS/jm

EXHIBIT 32

P-1

PUTNAM COUNTY SHERIFF'S DEPARTMENT

INTER - OFFICE MEMORANDUM

Date: January 19, 2007

C:\procedures 2020 011906

TO: Sergeants J. Greenough, B. Chambers, K. Jackson,
Sergeants C. Marro L. Lapolla

FROM: Captain Robert Le Fever



SUBJECT: **INTERIM STAFFING PROCEDURES
EFFECTIVE IMMEDIATELY
ADDENDUM TO MEMORANDUM 1 OF 1
JANUARY 2007**

The Commission of Correction has issued the final staffing analysis for the Facility based on the data that was compiled. The commission determined that there needs to be staff added as follows: one (1) officers on the A line in the Admission/Discharge [Booking] post and an Inmate Escort Officer on each the B Line and The C Line. The Commission has advised that these staffing requirements take effect immediately.

CONSTANT SUPERVISION

When a constant watch post is initiated an Inmate Escort Officer or the Booking Officer may be used for the start of the watch. These Officers can not be used for the duration of the watch. If the watch is started at a time when an officer can not be forced to cover the watch then every effort must be made to have other staff cover the watch as it is another post.

All constant watches will be posted in North Housing Unit 2. No other location will be used unless there are special circumstances that dictate otherwise.

END

CC: Lt. P. O'Malley
Sgt. S. Hanley

EXHIBIT 33

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Rev. January 2006

-----X
DONNY A. SINKOV, as Administrator
of the Estate of Spencer E. Sinkov,
deceased, DONNY A. SINKOV, and
HARA SINKOV,

Plaintiff(s),

- against -

CIVIL CASE DISCOVERY PLAN
AND SCHEDULING ORDER

07 Civ. 2866 (CLB) (MDF)

DONALD B. SMITH, individually
and in his official capacity as
Sheriff of Putnam County, et al.,

Defendant(s).
-----X

This Court requires that this case shall be ready for trial on or after November 30, 2007.

The following Civil Case Discovery Plan and Scheduling Order is adopted, after consultation with counsel for the parties, pursuant to Rules 26(f) and 16 of the Federal Rules of Civil Procedure.

The case (is) ~~(is not)~~ to be tried to a jury.

Joinder of additional parties must be accomplished by 6/8/07.

Amended pleadings may be filed until 6/8/07.

Discovery:

1. Interrogatories are to be served by all counsel no later than 6/15/07, and responses to such interrogatories shall be served within thirty (30) days thereafter. The provisions of Local Civil Rule 33.3 (shall) ~~(shall not)~~ apply to this case.

2. First request for production of documents, if any, to be served no later than 6/15/07.

3. Depositions to be completed by 8/29/07.

- a. Unless counsel agree otherwise or the Court so orders, depositions are not to be held until all parties have responded to any first requests for production of documents.
- b. Depositions shall proceed concurrently.
- c. Whenever possible, unless counsel agree otherwise or the Court so orders, non-party depositions shall follow party depositions.
- d. If the defense of qualified immunity from suit as a matter of law has been or will be asserted by any defendant(s) with respect to any claim(s) in the case, counsel for any such defendant(s) shall, within thirty (30) days of this order depose

plaintiff(s) at least concerning all facts relevant to the issue of qualified immunity. Within thirty (30) days thereafter defendant(s) shall serve consistent with Local Rule 6.1 and file a motion under Rule 12(c) or Rule 56, returnable on a date posted in the New York Law Journal by Judge Brieant for hearing motions. The motion shall, in the absence of agreement of counsel, be limited to the issue of qualified immunity, and plaintiff(s) version of the events shall be assumed true for purposes of the motion. **Failure to comply with this provision of this Order shall operate as a waiver of the opportunity to resolve the issue of qualified immunity by motion prior to trial.**

4. Any further interrogatories, including expert interrogatories, to be served no later than 9/11/07
5. Requests to Admit, if any to be served no later than 9/11/07
6. Additional provisions relating to discovery agreed upon by counsel for the parties ~~(are)~~ (are not) attached and made a part hereof.
7. All discovery is to be complete by 10/12/07

Dispositive motions, if any, must be served on notice as required by Local Civil Rule 6.1, and must be returnable before the Court on a published motion day, no later than three weeks before the ready for trial date.

Next Case Management Conference 12/7/07
(This date will be set by the Court at the first conference)

Joint Pretrial Order is required only if counsel for all parties agree that it is desirable, or the Court so orders.

This case has been designated to the Hon. Mark D. Fox, United States Magistrate Judge at White Plains for discovery disputes if the Court is "unavailable" and for trial under 28 U.S.C. § 636(c) if counsel execute their consent in writing.

Strict compliance with the trial readiness date will be required. This Plan and Order may not be changed without leave of the Court or the assigned Magistrate Judge acting under a specific reference order.

Upon signing a Consent for Trial Before a United States Magistrate Judge, the Magistrate Judge will establish an agreed date certain for trial and will amend this Plan and Order to provide for trial readiness consistent with that agreed date.

SO ORDERED.

Dated: White Plains, New York

June 1, 2007

Charles L. Brieant
Charles L. Brieant, U.S.D.J.